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| APPLICATION NO.                               | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.            | CONFIRMATION NO.       |
|---|-------------|----------------------|--------------------------------|------------------------|
| 10/824,099                                    | 04/14/2004  | Ajay Kumar           | 5681-54100                     | 6165                   |
| 58467   | 7590        | 07/18/2008           |                                |                        |
| MHKKG/SUN<br>P.O. BOX 398<br>AUSTIN, TX 78767 |             |                      | EXAMINER<br>WON, MICHAEL YOUNG |                        |
|   |             |                      | ART UNIT<br>2155               | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>07/18/2008        | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/824,099

**Applicant(s)**

KUMAR, AJAY

**Examiner**

MICHAEL Y. WON

**Art Unit**

2155

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 09 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): 1-19 and 24-29 rejection under 35 USC 112, 1st.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-19 and 24-29.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Michael Won/  
Primary Examiner  
July 17, 2008

Continuation of 11, does NOT place the application in condition for allowance because: regarding server cluster, Mullins clearly teaches that the invention can be employed in such environment (see col.1, line 67-col.2, line 3; col.2, lines 24-28; and col.16, line 48). In response to the second argument with respect to 35 USC 102(e) rejections, Mullins clearly teaches the broad limitation of an application executing on a server container. Mullins teaches "CocoNavigator API, or an associated computer program module configured to operate..." (i.e. application configured to execute) in a distributed environment. In response to the third argument, Mullins teaches "persisting any changes to an instance of the CDOG model" (see col.7, lines 29-34). Clearly, changes in the CDOG model results in a change in the state. Mullins also teaches that the environment pertains to object-oriented environment (see col.7, lines 38-42). Clearly according to the citations and the teachings throughout, when Mullins teaches the functionality recited in column 8, lines 8-12, the claim limitations are taught. Again with respect to the fourth argument, the combination of the teachings according to the citations above and the citation in the rejection, the claim limitations are taught. In response to the argument that Mullins does not teach "application state data within a server container" and "persisting only a changed portion", the citations in the rejection clearly teach this limitation. The applicant(s) seem to be asserting that because the prior art does not recite word for word the claimed language that the functional limitations are not explicitly taught. Furthermore, the applicant(s) clearly ignore knowledge known to one of ordinary skill in the art. According to the arguments of the applicant(s), the applicant(s) seem to be asserting that not one element of the claimed language is taught by Mullins because he does not explicitly state a "cluster" and "application state data". With respect to the arguments of claims 14 and 24 (see response to claim 1 arguments above).